

SURVEY OF CRIMINAL JUSTICE PROFESSIONALS

***REASONS FOR SPECIAL SEX OFFENDER SENTENCING
ALTERNATIVE (SSOSA) SENTENCE REVOCATIONS***



Conducted by Denise Keegan, MPA

August 2001

FOR

Washington State Department of Corrections

Planning and Research Section

P.O. Box 41108

Olympia, Washington 98504-1108

(360) 753-6180

Table of Contents

Executive Summary -----	Page 2
Introduction-----	Page 4
History of Sex Offenders in Washington-----	Page 6
Special Sex Offender Sentencing Alternative (SSOSA) Table-----	Page 9
Methodology-----	Page 10
Findings: Respondents View-----	Page 12
Findings: Revocations-----	Page 14
Willful Violations-----	Page 15
Treatment Issues-----	Page 16
Selection of SSOSA Offenders-----	Page 18
SSOSA Supervision-----	Page 21
Issues Needing Further Study-----	Page 26
Policy Implications-----	Page 28
Acknowledgements-----	Page 29
Bibliography-----	Page 30
Appendix A-----	Page 31

Executive Summary

The 1981 Washington Sentencing Reform Act (SRA) eliminated all suspended prison sentences. In response to this action, sex offender treatment providers and victim advocates requested creation of the Special Sex Offender Sentencing Alternative (SSOSA). Under this special alternative, suspended sentences could be issued in certain sexual abuse cases. The Legislature enacted SSOSA in 1984, making Washington the only state to have a specific sex offender sentencing alternative.

Professional sex offender therapists and victims advocates recommended SSOSA as an alternative method of punishment for low-risk sex offenders to ensure that more sex crimes would be reported. Their primary goal was to secure certified offender treatment and community supervision, as well as to enhance cooperation between local prosecutors and victims of sex offenses. Supporters of this measure believed SSOSA would reduce the victims' burden and stress of reporting the crime. Victims, often children, frequently know their offender and are often fearful that their actions of reporting the crime may lead to offender imprisonment.

Between its inception in 1984 and 1995, there had been an average of 320 offenders sentenced to SSOSA. Since 1995, however, that annual average has decreased to approximately 250 offenders a year. This represents a 21 percent reduction in the average annual number of SSOSA sentences.

Some offenders with SSOSA sentences are revoked when the court determines the offenders failed to comply with conditions of the SSOSA sentence. For purposes of this report, a *revocation* will be defined as the court's reversal of a SSOSA sentence and remanding a SSOSA offender to prison to serve the suspended sentence for noncompliance of the SSOSA court order.

The percent of SSOSA revocations is calculated by comparing the number of revocations recorded for a given year against the number of SSOSA sentences imposed in that same year.

The annual rate of offenders revoked ranges between 8 and 13 percent. Because the number of SSOSA sentences has been decreasing, the absolute number of SSOSA offender revocations has remained fairly constant at about 74 a year since 1990.

We wanted to know why SSOSA sentences imposed were declining while revocations were not declining at the same rate. We interviewed professionals in eight selected counties to learn more about the reasons for SSOSA offender revocations. The respondents identified key revocation issues that are sorted into four categories. In order of frequency of their being mentioned, they are: willful violation of sentence conditions, treatment issues, SSOSA selection issues, and supervision issues.

Study respondents expressed the belief that during the first six years SSOSA was offered to offenders, there was a backlog of interfamily molestation cases that had repeatedly been before the courts. As these cases were resolved, as schools successfully educated children about reporting deviancies, and as the offenders received treatment, a number of repeat molestation decreased and fewer SSOSA sentences were issued. Thus, according to respondents, fewer SSOSA sentences were issued.

Most of the professionals interviewed in this study believe SSOSA is a viable sentencing option. While they believe offenders are ultimately responsible for their own revocation, respondents think that some policies and practices could be strengthened or changed to better meet the goals of SSOSA. These policy changes are identified as *Issues Needing Further Study* and *Policy Implications* in the final section of this report. Some professionals interviewed in this study think that revocations and the state's liability could be reduced through implementation of changes related to the selection of SSOSA offenders, specialized supervision of SSOSA offenders, and improvement in the process of treatment provider reporting.

Introduction

The 1981 Washington Sentencing Reform Act (SRA) eliminated all suspended prison sentences. In response to this action, sex offender treatment providers and victim advocates requested creation of the Special Sex Offender Sentencing Alternative (SSOSA). Under this special alternative, suspended sentences could be issued in certain sexual abuse cases. The Legislature enacted SSOSA in 1984, making Washington the only state to have a specific sex offender sentencing alternative.

Professional sex offender therapists and victims advocates recommended SSOSA as an alternative method of punishment for low-risk sex offenders to ensure that more sex crimes would be reported. Their primary goal was to secure certified offender treatment and community supervision, as well as to enhance cooperation between local prosecutors and victims of sex offenses. Supporters of this measure believed SSOSA would reduce the victims' burden and stress of reporting the crime. Victims, often children, frequently know their offender and are often fearful that their actions of reporting the crime may lead to offender imprisonment.

The local community corrections officer and a CSOTP monitor SSOSA offenders. The CSOTP is required to provide quarterly reports to the court and other parties of interest. The community corrections officer verifies the offender's progress and participation in treatment by reviewing the reports and by conducting regular offender visits to ensure that all court conditions are being followed. In the event of a violation, the community corrections officer or CSOTP is required to report the violation immediately to the court. A violation hearing is held and the sentencing court determines the sanction to be imposed.

Some offenders with SSOSA sentences are revoked when the court determines they failed to comply with conditions of the SSOSA sentence. For purposes of this report, a *revocation* will be defined as the court's reversal of a SSOSA sentence and remanding a SSOSA offender to prison for noncompliance of the SSOSA court order.

The question, "Why are SSOSA offenders revoked" is one that has been asked by a variety of Department of Corrections staff and others interested in this particular sentencing option. This study was initiated by the Department's Planning and Research Section. The purpose was merely to gather information and insight from professionals in selected Washington State counties in order to learn more about why SSOSA offenders are revoked. During the course of the study, we found that many of the individuals who were contacted think that some policies and practices could be strengthened or changed to better meet the overall goals of SSOSA.

History of Sex Offender Regulation in Washington State

1981: The Washington State Legislature passed the Sentencing Reform Act (SRA), which was designed to provide a standard range of punishment for all adult criminal offenses. The guiding philosophy of the SRA was to sanction lawbreakers with punishments that reflected what the individual had done rather than focus on other factors. As originally developed, the SRA proposed elimination of all suspended or deferred sentences and coerced rehabilitation.

Providers of treatment to sex offenders and those treating the victims of sexual offenses successfully persuaded the Sentencing Guidelines Commission and the Legislature to approve a special sentencing provision for low-risk sex offenders. Their purpose in seeking special sentencing was to enhance victim comfort in reporting sex offenses, by providing an alternative to determinate sentencing for certain sex offenders (low-risk) and by permitting community supervision and treatment instead of incarceration.

1984: Washington became the first state to have a sex offender sentencing alternative when the Legislature enacted the Special Sex Offender Sentencing Alternative (SSOSA). By **FY 1986** SSOSA was used in 299 (45 percent) of the 664 sentences where the offender was eligible. In **1989**, the Legislature created the “Blue Ribbon Panel” to evaluate the effectiveness of SSOSA. The panel completed their study in **1991** with a conclusion that SSOSA was an effective alternative, but that it was used less often for indigent defendants unable to afford the expense of mandated assessment and treatment.

Research contained in the "Blue Ribbon Panel Report" demonstrated that offenders receiving SSOSA were less likely than other offenders to re-offend during the first two years after sentencing. It was concluded that offenders receiving a SSOSA sentence were a lower community risk than non-SSOSA offenders.

1990: As part of the Community Protection Act, the Legislature increased treatment providers' accountability to the court by mandating that sex offender exams and treatment under SSOSA be

conducted by Certified Sex Offender Treatment Providers (CSOTPs) after **July 1, 1991**. This certification required standards of practice that clearly set forth specific reporting requirements, treatment guidelines, and communication with other professionals.

Washington State was the first state to develop standards of practice and certification for CSOTPs. These certification requirements were created in recognition that courts and therapists have special responsibilities associated with sex offenders. The maximum sentence allowed for SSOSA was increased from six to eight years, and the length of community supervision and treatment was increased from one year to either two years or, for offenders coming out of prison, the period of earned release time, whichever is longer.

1995: The Washington State Institute for Public Policy did a follow-up study of the **1991** Blue Ribbon Report. It showed a lower sex offender recidivism rates for SSOSA offenders (11 percent) than the SSOSA-eligible offenders who were not on SSOSA (14 percent). It was unclear if the lower rates were because of treatment effectiveness, the selection of lower-risk candidates, or because of the potentially negative side effects of prison. This lower recidivism rate contrasted with the 31 percent recidivism rate for sex offenders who were not eligible for SSOSA. The **1995** study also reported that white offenders were three times as likely as eligible non-white offenders to receive SSOSA.

1996: The Washington State Department of Corrections was authorized by the Legislature to impose additional conditions on sex offenders serving community supervision for a period up to the statutory maximum sentence length. The Legislature extended the length of community custody for sex offenders sentenced to prison to three years or the period of earned release, whichever is longer. The court was authorized to extend community custody conditions up to the statutory maximum sentence for the offender. The status of community supervision for SSOSA offenders was changed that year to community custody, whereby the Department of Corrections was authorized to impose sanctions administratively.

1997: The Department of Corrections was directed to supervise sex offender compliance with payment of legal financial obligations for up to ten years after entry of the judgment/sentence or release from total confinement. Courts were authorized to extend the time an additional ten years for payment of legal financial obligations. The Department of Corrections was released from responsibility for supervision after the initial ten-year period. The standard sentence range of SSOSA that may be suspended was increased from eight to eleven years.

Also in **1997:** It was determined that SSOSA would remain available in cases eligible under prior law despite increases in the seriousness levels of certain offenses. The Legislature clarified that SSOSA offenders were not eligible to accrue earned early release time while serving a suspended sentence and the State must pay for initial evaluations and treatment in SSOSA cases where the defendant was under the age of 18 when the charge was filed.

Since FY 1988, fluctuations in the number of SSOSA sentences imposed have periodically occurred. In that time, the rate of SSOSA sentence revocations has also fluctuated with a marked increase in the revocation rate occurring in 1995 forward. SSOSA sentences have declined since FY 1995 while revocations have increased. The percentage of eligible sex offenders who are receiving SSOSA sentences has declined from 53 percent of the eligible offenders in FY 1998 to only 34 percent of the eligible offenders in FY 2000.

Special Sex Offender Sentencing Alternative (SSOSA)
Sentencing Patterns by Year

Fiscal Year	Eligible Sex Off	SSOSA Sent.	SOSSA as per. of Eligible	SSOSA Revokes	Revoke as per. SOSSA Sent.
1988	756	398	53	-	-
1989	765	396	52	-	-
1990	837	311	37	77	25
1991	866	349	40	64	18
1992	845	385	46	81	21
1993	940	400	42	61	15
1994	954	387	46	67	17
1995	856	309	36	97	31
1996	664	299	45	88	29
1997	636	240	38	84	35
1998	735	205	28	90	44
1999	693	222	32	57	26
2000	669	231	34	49	21
Totals	10216	4132		815	
Averages			40		24

Methodology

Literature and Data Review

In light of Washington being the only state to have a specific sex offender sentencing alternative, the literature and data search for this study was confined mainly to printed document from Washington State agencies. Information from such documents was augmented through personal conversations with agency staff persons who have been following the progress of SSOSA since it was implemented in 1984.

Survey Procedure

Eight counties in Washington State were selected for the fifteen-question survey instrument. The eight selected counties were Clark, King, Kitsap, Pierce, Snohomish, Spokane, Yakima, and Whatcom. Counties were selected based on the number of sex offender convictions, the county's geographic location, and some demographics such as cultural diversity and county transience. The eight selected counties seemed to be a good representation of the state because they accounted for 70 percent of the statewide sex offender sentences between 1988 and 2000. The SSOSA sentences from those counties represent approximately 57 percent of the statewide number, and 72 percent of the revocations issued to SSOSA offenders statewide over that twelve-year period occurred in those same counties.

Survey questions were open-ended and administered in a semi-structured oral interview format. Survey questions may be found in Appendix A. Surveys were distributed to each respondent by e-mail. Some surveys were distributed via fax where e-mail was unavailable. Respondents were invited to review the survey instrument prior to confidential, twenty-five minute telephone interviews conducted at a mutually selected time.

Judges, defense attorneys, public defenders, deputy prosecutors, and community corrections officers from the eight counties were chosen by job description. Some of the potential respondents were identified through key informant interviews, and purposive sampling was utilized to select some interview respondents.

Attempts were made to balance the number of respondents from each profession category. Responses were obtained from sixty individuals. Surveys were compiled, and results were tabulated by question, cross-referenced by profession

Selecting respondents with previous SSOSA offender experience was important to the integrity of this study. In their professional career, survey respondents' experience ranged from working with at least 50 SSOSA offenders to working with an excess of 300 SSOSA offenders. If potential interviewees were inexperienced with SSOSA or SSOSA offenders, they were not interviewed. Collectively, SSOSA experience of interviewed professionals was greatest among the responding deputy prosecutors. Although we did attempt to get a broad representation of persons with expertise and experience, we recognize that the responses are personal opinions and do not reflect the opinions of the all individuals in each of the professions interviewed. The final makeup of the respondents was: judges, 23; defense attorneys, 10; deputy prosecutors, 8; community corrections officers, 19.

Analysis Procedure

An analysis of the survey data was conducted using the Content Analysis Procedure. Sample sizes were too small and diverse for quantitative analysis. Survey results, when possible, are included in applicable findings sections. Interview notes were summarized and a content analysis was performed. General conclusions were developed when possible, and the findings were categorized into themes that emerged from the interviews. These themes have been included throughout the body of the report.

Data used in this report was based on fiscal year figures. The totals for SSOSA offenders do not break out the number of exceptional sentences. Percentages are used instead of actual numbers in some instances because of varied methods of data collection and recording among data sources.

Findings: Respondents' View of SSOSA

Characteristically, sex offenders eligible for SSOSA are low-risk for re-offense. Their crimes usually involve children or adults known to them, and they are considered to be “situational sex offenders” rather than predatory or violent. If an offender wants to be considered for a SSOSA sentence, a court-ordered assessment must be obtained to ascertain their eligibility for SSOSA, as determined in statute. The defense attorney or public defender requests and identifies a preferred Certified Sex Offender Treatment Provider (CSOTP) to conduct the assessment which is provided in the form of a report to the court.

The court determines the offender’s eligibility for SSOSA and issues a written court order with sentence details to the offender. It is understood that if the offender violates conditions of this court order, the SSOSA sentence could be revoked and the offender would be immediately remanded to prison.

Support for SSOSA

While most respondents favor SSOSA, either because it is law or because they believe in it, some respondents see room for improvement. They maintained that the jail sentence is too short or “far too lenient” for a sex offense. Some respondents indicated they see SSOSA as a “middle-aged white man’s sentence” – discriminatory against indigent offenders or persons of color. Data seems to support the latter observation.

Among **deputy prosecutors** who were asked about their sentiments regarding SSOSA, 72 percent were favorable to SSOSA sentences. Most attorneys in the study, 78 percent, support SSOSA and slightly more than half of the judges and community corrections officers, 57 percent of each, support this alternative. A majority of *all* respondents named treatment providers and community corrections officers as key leaders when a SSOSA revocation is undertaken.

Most **community corrections officers** favoring SSOSA say this alternative is less expensive for the state and provides needed treatment to certain low-risk offenders. They say the SSOSA offender has a better chance of successfully integrating back into the community if they stay out of prison. A few community corrections officers expressed the belief that SSOSA is unfair because the SSOSA sentence is not adequate punishment. These respondents see SSOSA as providing too much lenience for what they see as heinous crimes. They think treatment helps the offender but believe the treatment should occur in prison.

Judges indicated that an offender's remorse, willingness to admit the crime, and response to treatment are reasons they would support a SSOSA sentence for certain offenders. The sixty-seven percent of the judges so responding also said SSOSA sentences should not be used in cases where the victim disagrees with its issuance. Some judges believe the sentence is "inconsistent with reasonable punishment for the act." One judge complained, "...an offender gets three years for delivering a controlled substance while a SSOSA offender gets only six months in jail for molesting three children. There is something wrong with this."

Most **defense attorneys** in the study said that keeping offenders in the community and providing treatment to them can be very helpful for qualified clients, and they expressed concern that otherwise eligible offenders who lack financial resources to afford treatment are eliminated from consideration when they would be excellent SSOSA candidates.

A minority of respondents suggested a state-mandated flat fee schedule be established for certified treatment providers. One respondent said, "...by taking the monetary gain out of it, the state would make the service more professional." One respondent suggested the state assume responsibility for paying treatment providers altogether. It is their belief that this option would control offender treatment costs and change the system to make it more fair and less biased for everyone. This person suggested this would perhaps enable more offenders to receive SSOSA sentences.

Findings: Why are offenders being revoked from SSOSA?

Revocations have not decreased even though the numbers of new SSOSA sentences have decreased since FY 1995. Reasons why this is occurring seem to be as varied as the circumstances under which a revocation can be issued. Between FY 1990 and FY 1994, the ratio of revocations to SSOSA sentences was 19 while the ratio of revocations to SSOSA sentences between FY 1995 and FY 2000 increased to 31.

Respondents said revocations in recent years are occurring for about the same reasons as they have always occurred. Almost all of the respondents said an offender's willful violation of the court order is *the primary reason* SSOSA offenders are revoked. Sixty-seven percent of survey interviewees said they have seen no major changes or trends in reasons behind revocations since SSOSA was started in 1984. Judges were more likely to see no change (81 of the judges responding) while community corrections officers, attorneys, and prosecutors said they see *some* change in the reasons behind revocations. They notice an increase in the access, influence, and availability of internet-related pornography and other deviant materials. They said that they believe this is a notable change that may affect increases in revocation.

Most revocations are attributed to one or more of the following considerations (listed in order of significance to the respondents):

- *Willful Violation of the SSOSA Court Order by the offender.*
- *Treatment Issues – offender quit or was suspended from treatment.*
- *Improper Selection of SSOSA Offenders – perhaps offender should not be on a SSOSA.*
- *The Sufficiency of Offender Supervision by Community Corrections Staff and/or CSOTP.*

Willful Violation of the SSOSA Court Order

Ninety-one percent of the respondents to this study said willful violation of the court order is ***the primary*** reason most SSOSA offenders are revoked. According to study respondents, the list of activities that define “willful violation” may include items such as: violating “no contact” orders; abusing alcohol and/or drugs; committing new offenses; possessing pornography; engaging in unauthorized relationships; failing to report to the supervising officer; absconding from the system; or being caught grooming--luring children through specific activities. Study respondents said that on occasion offenders violate the court order because of a lack of emotional or mental capacity. Only a few respondents indicated offenders may be revoked because they should not have been sentenced to SSOSA in the first place.

Most respondents said they are usually unwilling to be lenient with offenders who willfully violate the court order. However, they said they will “work with the offenders” in certain situations within the SSOSA sentencing structure. They expect offenders to be in strict compliance of the court order because SSOSA is a privilege rather than as an entitlement. Offenders must demonstrate they are amenable to, and can pay for, treatment. Offenders must also have a certified therapist who is willing to continue to provide treatment to them.

Liability concerns and a heightened public scrutiny of sex offender cases were among the reasons respondents think revocations are usually issued. Community safety, they observed, continues to be of utmost concern among elected officials and in the media. They believe judges and prosecutors, faced with realities of re-election, relent under the public pressure to incarcerate some sex offenders rather than give them a “second chance” in the community. Impacts of this inherent public pressure seem to vary in the eight counties surveyed. Some respondents think local political relationships, community sentiment, and local policies could influence the outcome of certain cases. However, most respondents indicated they believe revocation decisions are case-specific. Given that revocations have not declined at the same rate as SSOSA

sentences over the past few years, one could infer that increased public pressure and concern for public safety are inherently significant to the supervision of SSOSA offenders.

Modifications as an Alternative to Revocation

Under RCW 9.94A.120(8)(iv), a court can opt to modify the conditions of the SSOSA court order. In part, the law states that "... at the time of the treatment termination hearing the court may: (A) Modify the conditions of community custody, and either (B) terminate treatment, or extend treatment for up to the remaining period of community custody."

Modifications of the original sentence are, in some cases, utilized instead of issuing a revocation. According to the respondents, these modifications can include such things as extending the length of the SSOSA sentence, altering "no contact" orders to reunify family members, changing travel and living situations for offenders, or altering treatment conditions. Some court officials believe that new technology, such as the new polygraph techniques, an increased use of plethysmographs, and other high-tech information-gathering tools, allows them to be more knowledgeable about the offender and the offender's past. Armed with more information, they believe they can consider a modification and, thus, keep some offenders out of prison. Respondents said this new knowledge creates a better environment for negotiating modifications, ensuring better offender accountability, and providing a needed element of flexibility for the offender. In counties where modifications and time extensions are used, respondents seemed certain that these modifications reduce the number of revocations in their jurisdiction. In some jurisdictions, however, respondents said they question the legality of modifying court orders and indicated they do not modify SSOSA court orders.

Treatment Issues

Treatment issues were identified as one of the reasons some offenders are revoked from a SSOSA sentence. Twenty-one percent of the respondents said they attribute some SSOSA revocations to an offender's lack of resources or inability to pay for assessments and treatment. While only 14 percent of the judges said an offender's inability to pay was a reason for SSOSA revocation in

cases brought before them, 32 percent of the community corrections officers responding to the survey said inability to pay was a factor in revocations on their caseload. Some respondents said an offender's financial problems or inability to pay for treatment contributed to SSOSA revocation in these cases. However, they believe revocations are rarely due exclusively to an offender's inability to pay. Individuals in all four professional groups indicated they are willing to help motivated and eligible offenders with payment plans and schedules to accommodate their financial concerns.

Offenders sometimes *refuse* to pay for therapy because of personal reasons or attitude. Treatment providers often work with offenders to create payment plans that will ensure affordability and encourage an offender's continuance with SSOSA. Expenses for SSOSA assessment and treatment, described as being in excess of \$10,000 by one respondent, could preclude eligible offenders from receiving SSOSA. Financially unstable offenders could face revocation if the offender were released by the treatment provider for nonpayment. There are also some offenders, according to respondents, who might lack the intelligence, maturity, and/or social skills to progress in treatment.

Respondents acknowledged that some treatment providers are less likely to maintain "marginal" offenders as clients if they perceive an increased liability or potential damage to their professional reputation. Respondents indicated therapists are more likely in today's political climate to recommend revocation in such cases.

In some locations, such as Whatcom County and Yakima County, respondents indicated a lack of certified treatment providers to serve local offenders. In Whatcom County, a treatment provider died, thus placing additional burden on the remaining CSOTP. While there are three additional certified treatment providers in Whatcom County, only one works with adults. In Yakima County, where there are only four certified treatment providers, only one CSOTP works with adult offenders. Respondents said offenders frequently travel to western Washington to secure the necessary assessments and treatment to obtain or remain on SSOSA.

The Washington State Department of Health staff is initiating statewide meetings to make changes to the certification requirements for treatment providers. These changes, according to a spokesperson, are being made in recognition of the CSOTP shortage throughout the state. They hope to broaden the pool of available therapists in communities by adjusting the requirements.

The effectiveness of sex offender treatment is an issue that causes concern among some respondents. According to Lucy Berliner from the Harborview Sexual Assault Center in Seattle, "...high quality, cognitive behavioral treatment can produce reductions in recidivism among sex offenders." In a report scheduled for publication in April 2002, Dr. Carl Hansen addresses this subject in greater detail. The report, entitled *ATSA Collaborative Database Project: A Meta Analysis*, will be published by the Association of Treaters of Sexual Abusers (ATSA).

Improper Selection of SSOSA Offenders

Fundamental to the issue of SSOSA revocation is the process by which offenders are initially sentenced to SSOSA. If an offender is "incorrectly" selected because criteria for success in SSOSA were not carefully reviewed (see below), the *actual cause* of a revocation may be misinterpreted. Almost all of the respondents indicated that when addressing the issue of revocation, they need:

- *valid, comprehensive information about an offender's past,*
- *adequate knowledge of the offender's financial and social stability,*
- *information about the offender's relationship to the victim, and*
- *clarity about the offender's attitude about the crimes committed.*

Some respondents suggested an actuarial risk prediction instrument should be used before sentencing any sex offender because this could increase their accuracy in determining the offender's risk for re-offending.

Initial *selection of offenders for SSOSA* is a key element identified by respondents when they were asked to discuss reasons SSOSA offenders are revoked. Respondents implied that selection of an offender for SSOSA is a subjective decision – sometimes affected by outside influence. The plea bargain process, the local political climate, an inadequate or incomplete treatment assessment, policies in the county prosecutor’s office, a lack of resources within the court jurisdiction, interpretation of the SSOSA law, the management style of a supervisor, or other factors can all have an influence in the decision to grant a SSOSA. These factors, as described by respondents, are as diverse as the offenders and communities where the SSOSA is imposed, and they can confound SSOSA study results.

Respondents itemized considerations they review each time an offender is considered for SSOSA:

- *The offender’s ability to pay for the assessment and treatment*
- *The offender’s past criminal history*
- *The offender’s amenability to treatment*
- *The offender’s motivation for SSOSA versus seeking avoidance of prison*
- *The offender’s risk to the community*
- *The nature of the offender’s past offenses, i.e., multiple offenses or multiple victims*
- *The offender’s lack or presence of violence in the commission of their crimes*
- *The treatment provider’s motivation in submitting the offender’s assessment -intent to obtain client business or an honest assessment of offender’s amenability to treatment.*
- *The offender’s remorse for his/her actions.*

SSOSA Selection Process

A Pre-Sentence Investigation (PSI) is written and submitted by the community corrections officer when ordered by the Superior Court. The document must be delivered to the court at least ten days prior to sentencing. In at least one county, respondents complained the PSIs were “tabloidish” and reactionary, because of what the respondents perceived as the community corrections officers' inexperience with sex offenders and with SSOSA. These respondents

believe their local community corrections officers react to the nature of the crime and that they lack needed supervision skills to work with sex offenders.

Respondents stated that judges generally make good decisions about SSOSA recipients. They credit this success to the available technology that accurately provides past criminal history, an offender's age, an offender's full admission of alleged sexual crimes, and the types of sexual crimes committed. These elements distinguish a SSOSA offender from those who cannot qualify for this sentencing alternative.

The Effectiveness of SSOSA

The effectiveness of SSOSA is almost exclusively dependent upon an offender's behaviors and attitudes in approaching their treatment and sentence, according to most study respondents. The offender's perception of the crime, i.e. admission of guilt, is also a key element. The expertise and quality of the treatment provider's services and the subsequent supervision they receive from their community corrections officer can also affect offender success. One deputy prosecutor said he believes revocations are solid evidence the system *is* working. Others believe revocations occur when SSOSA is *not* effective.

Respondents were asked to identify characteristics of offenders and their crimes that might elucidate how SSOSA could be effective. These characteristics included, but were not limited to:

- *The absence of violence or force in the committed offense*
- *The offender's amenability to treatment*
- *The offender's motivation toward the SSOSA sentence and treatment*
- *The offender's display of genuine remorse*
- *The presence or lack of substance abuse*
- *The seriousness of the offender's crime*
- *The number of offenses committed*
- *The offender's support system in the community – friends, relatives, church, etc.*
- *The offender's ability to pay for the assessment and treatment*

- *The offender's clear understanding of the expectations while on SSOSA*
- *The offender's lack of a prior criminal history*
- *The effectiveness, expertise, and regularity of the interaction between the offender, the community correction officer, and treatment provider*
- *The victim's support of the SSOSA sentence*
- *The stability of the offender in the community*
- *The offender's ability to admit they have a problem*
- *The offender is willing to comply with the conditions of the court order*
- *The offender's imminent risk to the community*

Financial and Ethnic Status For SSOSA Offenders

Public defenders surveyed during this study, and others who were interviewed from a 1991 Harborview Sexual Assault Center and Urban Policy Research Report to the Legislature, said they hesitate to refer an offender for evaluation when that offender indicates they cannot afford the required treatment. Similarly, offenders unable to afford a private attorney, according to the study, were “significantly less likely” to get evaluations - a prerequisite to receiving a SSOSA sentence.

Most respondents in this study indicated they see less opportunity for indigent and non-white offenders to receive SSOSAs even when other considerations are favorable. Current state statistics on SSOSA offender ethnicity reinforce this perception and the earlier findings. In the February 2001 Sex Offender Treatment Provider Directory, more than twenty-five therapists were listed as providing services to ethnic clients but ethnic origin was not listed. There may be a need for updated research on this subject.

The Sufficiency of SSOSA Offender Supervision

According to one professional, a citizen perceives supervision to be something “...the Department of Corrections is expected to do with reasonable effort.” The term “reasonable” seems to be defined differently in each county or community. The method of offender

supervision and the means by which violations are reported were key issues for respondents.

Because the term

"supervision" has a variety of uses in the Department of Corrections, and was not clearly defined in the survey, further study or clarification may be needed to determine the message set forth by the respondents in this study.

Conventional wisdom and numerous reports indicate a strong correlation between "diligent" supervision of an offender and the likelihood of revocation. However, respondents from all four professions implied that *less* supervision or a *lower quality* of supervision actually leads to revocation. On the surface, respondents' opinions appear to be in conflict with this correlation and conventional wisdom.

The difference in respondents' perceptions (see comment sections of survey) and conventional wisdom may rest in the interpretation of how supervision is employed. If the offender lacks quality supervision, they won't get caught violating court conditions, i.e., they will not be revoked. If, on the other hand, the offender receives a high quality of supervision, they might be revoked or they might not be revoked – depending upon how this supervision is carried out.

If one perceives the community corrections officer is a "counselor" or "helper" of the offender, they may say the community corrections officer seeks to *prevent* the offender from re-offense or revocation. The community corrections officer will likely pursue a change in the offender's behavior and try to teach or re-teach the offender how to conduct himself/herself in the community. Respondents believing in this approach to supervision say that better training will lead to more prevention and intervention, thus stopping an act before it can lead to revocation.

Others may believe a supervising community corrections officer is a "law enforcer", who threatens to sanction of the offender if or when he or she violates the court order. In this case the community corrections officer would tell the offender that they are there to catch them if and when they "mess up." Behavior modification and education of the offender may not be the

community corrections officer's primary consideration in a "law enforcement" approach to supervision.

Comments from respondents seem to point to a need for some clarification in how supervision affects revocation rates. Listed below are circumstances of supervision under which the quality of the SSOSA sentence might be compromised. Their list, in part, is provided below for reference:

- *Treatment providers did not report offender violations to the community corrections officer or to the court.*
- *The community corrections officer did not report offender violations to the court.*
- *Frequent community corrections officer turnover and changes led to ineffective contact and supervision of the offender.*
- *The community corrections officer was inexperienced or overworked.*
- *The department was too lenient with the offender.*
- *The court received violation reports after offender committed multiple offenses thus leaving little option for correcting the offender.*
- *The community corrections officer lacked specialized knowledge and expertise to recognize and/or address sex offender behaviors.*
- *There is a changing ideology about sex offenders among community corrections officers, which may influence the supervision they provide.*
- *The responsibilities and risks attendant to supervision of sex offenders in the community outweigh the perceived benefits of keeping offenders in the community.*

By design, SSOSA offenders are supervised in the community and they are required to undergo treatment for at least three years. That time can be extended on a year-to-year basis up to the maximum sentence issued by the court. SSOSA offenders are considered to be primarily at low risk to re-offend. Studies show that the first two years immediately following imposition of the sentence is the time during which most non-SSOSA sex offenders in the community will commit or be convicted of new crimes but re-offending is "suppressed" for SSOSA offenders during the

first two years of their sentence. Known as the “suppression effect,” this reduction in re-offending has been attributed to the low-risk characteristics combined with supervision and treatment of SSOSA offenders.

Ensuring compliance with the court order and monitoring offender behavior are largely the responsibility of the community corrections officers – usually in collaboration with the certified treatment provider (CSOTP). Sixty-four percent of the respondents in this study indicated the most crucial role in SSOSA revocations must be equally shared between the community corrections officer and the CSOTP. The CSOTP is required to report violations to and share responsibility with the community corrections officer for ensuring court compliance. The community corrections officer must file violation reports with the court when violations are identified and ensure that the SSOSA offender abides by all conditions of the court order. They also make general determinations about the offender’s effect on community safety.

Some judges in this study said they get very frustrated when violation reports are brought to them just before the revocation hearing. In two different interviews, a judge and a community corrections officer spoke of offenders who were revoked after multiple disciplinary hearings. Some judges said they delay or postpone court hearings when community corrections officers or treatment providers fail to provide timely or ample paperwork. Other judges said CSOTPs do not submit violation reports to the court or to the community corrections officers, even though violations are occurring and the violation reports are a necessary element of the process. One respondent said, “No one really cares until there is a problem...”

Judges in some counties indicated they require sex offenders be assigned to the same judge for all pertinent court actions. This policy, they claim, reinforces accountability and ensures consistent communication between the court and individual offenders. More study on this issue might be interesting.

Specialization of Supervision of SSOSA Offenders

Respondents were asked about anticipated reactions if community corrections officers no longer receive specialized training before being assigned to supervise SSOSA offenders. Eighty percent of the respondents to this question said community corrections officer specialization is extremely important. These respondents believe the state's risk for liability will escalate without "quality community corrections officer supervision and expertise."

Respondents indicated that consistent, specialized supervision of SSOSA offenders could significantly affect the likelihood of revocation for some offenders. All of deputy prosecutors expressed deep concern about the manipulative behaviors of sex offenders and how an inexperienced community corrections officer could be easily misled by an offender. They insisted, as did a high percentage of other respondents, that specialization is very important for community corrections officers who supervise sex offender populations.

Historically, the Department of Corrections has provided, at different points in time, specialized supervision as well as generalized supervision of sex offenders. The decision about the method of supervision is influenced by a variety of considerations. In some counties, specialized units are in place to handle all sex offenses. In other locations, the supervision and management of sex offenders is managed in a more diverse manner. Almost all of the respondents in this study said they want sex offender supervision to be provided by individuals possessing specialized sex offender training.

One judge responding to the survey related that "...it is helpful in (Kitsap County) to have a community corrections officer who is familiar with offender patterns, excuses, and levels of participation and background information. Eliminating specialized caseloads for community corrections officers is a very bad idea. Community corrections officers interface with treatment providers and prosecutors regularly, and issues are addressed quickly without a bureaucratic backlog."

Judges also said a lack of training and expertise reduces the community corrections officers' credibility with the court and this may contribute to revocations. Some of the judges' issues were:

- *Poorly written and biased Pre-Sentence Investigation reports*
- *Poor or delayed compliance with constantly changing sex offender regulations and policies, such as recent changes in the community placement laws*
- *Increased congestion in the court system because inexperienced community corrections officers will be unable to efficiently or effectively respond to the unique characteristics of sex offense cases*
- *The community corrections officers rapport with prosecutors and treatment providers will be less effective due to this lack of expertise*
- *An increase in liability cases and other legal actions against the Department of Corrections because of improper handling of the SSOSA caseload.*
- *Less direct supervision of SSOSA offenders because sex offense cases require increased attention, for example enhanced verification requirement*
- *The community corrections officers ability to properly supervise the sex offenders is compromised by diverse caseloads.*

Issues Needing Further Study

A study about the effects of SSOSA on victim reporting should be undertaken to ascertain if the intended goal of SSOSA has been met. SSOSA was developed to improve the likelihood that sex crimes would be reported – especially in cases of familial or non-stranger offenses. Victim advocates joined sex offender treatment providers in promoting SSOSA to help victims become more comfortable reporting sex offenses. Providers and advocates learned from experience that victims, in cases where the offender was a family member or familiar person, experienced guilt reporting the crime. Thus, these sex crimes would often go unreported. A study of this issue is important to the overall understanding of SSOSA.

Examine the payment process for certified sex therapists as a means of reviewing the need for a statewide, state-initiated payment structure. It was suggested that a flat fee for CSOTP services be created for treating sex offenders with SSOSA sentences. This fee structure would likely improve uniformity of treatment fees and provide a statewide mechanism to ensure more consistent and timely quarterly reports from all certified therapists.

Review and perhaps revise the imposition of sentence regulations. Some SSOSA offenders lose their jobs when they begin their six-month jail sentence. While jail sentences are issued at the discretion of the court, some respondents suggested a that *imposition of a confinement sentence* might not be helpful in all cases.

A study regarding specialized sex offender training requirements for community corrections officers working with or supervising sex offenders should be undertaken. Some respondents to this survey said they see liability issues for the state and they predict an increase in SSOSA revocations if community corrections officers are not properly trained as to sex offenders' unique characteristics. Respondents conceded there is a higher burnout rate among community corrections officers who work with the "high maintenance" sex offender population. They also believe there is an equally significant concern that community corrections officers, without proper training and experience, would provide inadequate supervision to these sex offenders and that generalized supervision may lead to inconsistent management thereby increasing the state's risk of liability.

Community corrections officer supervision of SSOSA offenders should be studied. In some counties, respondents reported a high rate of turnover among community corrections officers who supervise sex offenders. This situation greatly concerned many respondents who fear inadequate supervision or inconsistent management of SSOSA offenders.

Examine the length of SSOSA jail sentences to determine if this jail sentence is consistent with punishments for other crimes. Some judges indicated they view the SSOSA jail sentence as "laughable" citing drug delivery cases with a three-year prison sentence while sexual

molestation cases get six months. For this reason, these judges indicated they are reluctant to grant SSOSA sentences.

Review ways to address the shortage of treatment providers in some locations. Respondents contend that some SSOSA offenders are revoked and fewer SSOSA sentences are imposed due to a lack of certified sex offender treatment providers.

Policy Implications

- **Most respondents believe SSOSA is a good policy when used correctly.** SSOSA is a privilege.
- **The impact of offender financial status on whom receives SSOSA, as well as the ability of offenders to sustain treatment, is an ongoing concern.** State payment of certified treatment providers is seen as a way to mitigate negative impacts of financial effects.
- **Sex offender supervision must be a priority.** Respondents believe lack of quality supervision increases state risk for liability.
- **Certified sex offender treatment provider and community corrections officer reporting procedures should be examined to improve and effect a better process.** Quarterly reports are not written and submitted by all treatment providers in a timely fashion. Perhaps certified sex offender treatment provider input could lead to development of standardized reporting.
- **Respondents were concerned about the need for specialized sex offender supervision.** Specialized caseload and training are seen as ways to ensure quality supervision of SSOSA offenders.

Acknowledgements

We would like to thank the judges, deputy prosecutors, defense attorneys, public defenders, and community corrections officers who took time from their busy schedules to participate in this study.

Preparation for the survey instrument included valuable input and background data provided by a number of dedicated and knowledgeable professionals. Their help and expertise in developing the study and their assistance in its implementation was deeply appreciated. These individuals include Dr. R. Peggy Smith and the staff in the Department of Corrections Planning and Research Section; Dr. Dave Fallen, Caseload Forecast Council; Roxanne Lieb, Washington State Institute for Public Policy; Dr. Christine Roberts, DSHS RDA; the Sentencing Guidelines Commission staff; Bob Swanson, DOC Personnel Officer; Gary Banning, DOC Contracts Administrator; Jack W. Lien, MA, Former Whitman County Court Administrator; Lucy Berliner, MSW, Harborview Sexual Assault Center; Tom McBride, Washington Association of Prosecuting Attorneys; Judge Robert Harris, Washington State Judges Association; John Fattorini, Washington State Bar Association; Dr. Roger Wolfe, Certified Sex Offender Treatment Provider; and a number of attorneys who chair key committees for the Washington State Bar including Chris Tait, Gary Nece, James Hershey, Christie Hedman, Washington Defender Association; and Theresa Mathis, Washington Association of Criminal Defense Lawyers, among others.

Bibliography

Berliner L., Miller, L.L., (June 1999) *The Special Sex Offender Sentencing Alternative: A Study of Decision-Making and Recidivism*

Northwest Resource Associates for the Washington Institute for Public Policy.
(July 1993) *An Examination of Sex Offender Treatment Provider Certification*

Schram, D., Milloy, C.D., (October 1992) Report Prepared for the Washington State Institute for Public Policy: *Specialized Supervision of Sex Offenders: Program and Evaluation Issues*

Schram, D., Milloy, C.D., (June 1993) Report Prepared for the Washington State Institute for Public Policy. *Specialized Supervision of Sex Offenders: Program and Evaluation Issues*

Song, L., Lieb, R., (February 1995) Washington State Institute for Public Policy.
Washington State Sex Offenders: Overview of Recidivism Studies.

SSOSA Blue Ribbon Panel. (1991) *Final Report to the Legislature.*

Department of Corrections Twin Rivers Corrections Center. (1991) *Annual Report on the Sex Offender Treatment Program*

Washington State Institute for Public Policy. (December 1984) *Treatment of Sex Offenders in Washington State Summary Report*

Washington State Institute for Public Policy. (June 1994) Fourth Edition. *Findings from the Community Protection Research Project: A Chartbook*

Prentky, R., Knight, R. Lee, A.F.S., National Institute of Justice Research Report. (June 1997)
Child Sexual Molestation Research Issues

Sentencing Guidelines Commission. (2000) *Adult Sentencing Guidelines Commission*

Sentencing Guidelines Commission. (2000) *Statistical Summary of Adult Felony Sentencing*

Department of Health Sex Offender Treatment Provider Program. (February 2000) *Sex Offender Treatment Provider Directory*

Department of Health (February 2000) *The Law Relating to Sex Offender Treatment Providers 18.155 RCW*

Appendix A: Survey Responses

Number of Professionals Interviewed:

Community Corrections Officers	Judges	Attorneys	Deputy Prosecutors
19	23	10	8

1. Please describe your background including education and how long you have held your current position. What other positions have you held in the criminal justice field? How long did you serve in those positions?
2. Please indicate/approximate the number of SSOSA offenders you supervised/judged/represented in your career?

SSOSA Contacts in Career

Number of SSOSAs	Community Corrections Officer's	Judges	Attorneys	Deputy Prosecutors
0-10:	-	22%	-	-
10-50:	42%	43%	70%	25%
50-100:	16%	22%	20%	12%
100-300:	21%	13%	10%	38%
300+:	21%	-	-	25%

3. Please think back over the last three SSOSA revocation cases in which you were involved. Can you remember the reasons why these offenders were revoked?
 - A. Lack of treatment providers in your county or area
 - B. Tighter supervision of SSOSA offenders
 - C. Lack of quality treatment
 - D. Housing
 - E. Offender could not pay (please elaborate)
 - F. Communication problems (please elaborate)
 - G. Offenders needed more supportive resources and services (housing, counseling, job placement, etc.)
 - H. Improper sentencing (offender should not have had a SSOSA) – please elaborate
 - I. Transportation (please elaborate)
 - J. Language Issues
 - K. Willful violation of the court order
 - L. Other (please elaborate)
4. As a _____, how do you see your involvement (role) in the SSOSA revocation process?

5. As a _____, what do you think are the kind of actions (violations) that prompt a revocation? Have these actions (violations) changed over the past five years? In the past five years, have you seen trends in actions/behaviors (violations) of SSOSA offenders? Please elaborate.
6. Are modifications of the SSOSA court orders a common practice in your county? If yes, approximately what of the court orders are modified? Over the past five years, have you seen an increase/decrease in court modifications? If yes, please elaborate.
7. In your view, which parties play the most crucial role in the SSOSA revocation process?
 - Community corrections officer
 - Victim
 - Defense
 - Treatment provider
 - Prosecutor's office
 - Other (please elaborate)
8. What are the key elements in the decision to revoke a SSOSA sentence versus modifying the court order? How has this changed over the past five years?
9. As a _____, do you favor SSOSA sentences? Please elaborate why or why not.
10. Under what circumstances do you believe the SSOSA sentence to be effective?
Under what circumstances do you believe the SSOSA sentence is *not* effective?
11. Were you aware that the number of SSOSA sentences in your jurisdiction has declined over the past five years? What is your impression as to why this is occurring?
12. Do you see issues or concerns with the practice of treatment providers issuing the initial assessment and subsequently providing treatment to that very same offender?
13. Are there other comments you wish to make regarding the revocation of SSOSA offenders?
Please indicate those remarks here.

Questions added to recent interviews:

14. What, in your opinion, would be the resulting impact on revocations if community corrections officers are no longer specialized in their assignments, training, and supervision of SSOSA offenders?
15. Do you receive regular reports from the treatment providers and/or the community corrections officers? Do you read them? Please comment about these reports, their regularity or irregularity, and its effect on revocations.

Thank you for your assistance in this survey. Results will be shared with you at the conclusion of the study.